

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

WOODY ALLEN,)	X
)	
Plaintiff,)	
)	
)	
-against-)	
)	
AMERICAN APPAREL, INC.,)	
)	
Defendant.)	
)	

Civil Action No. 08 CV 3179 (TPG)(KNF)

**DEFENDANT'S ANSWER TO
PLAINTIFF'S COMPLAINT**

Defendant,)	
American Apparel, Inc. (hereinafter, "American Apparel" or "Defendant"),)	
by and through its undersigned counsel, answers Plaintiff's Complaint as follows:)	
)	

1. Defendant admits that Plaintiff is seeking compensatory and exemplary damages through this action. Defendant denies each and every remaining allegation contained in Paragraph 1 of the Complaint.
2. Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegation contained in Paragraph 2 of the Complaint, and on that basis, denies the allegation contained therein.
3. Defendant admits the allegations contained in Paragraph 3 of the Complaint.
4. Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegation contained in Paragraph 4 of the Complaint, and on that basis, denies the allegation contained therein.
5. Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegation contained in Paragraph 5 of the Complaint, and on that basis, denies the allegation contained therein

6. Defendant admits the allegations contained in Paragraph 6 of the Complaint for the purposes of this action.

7. Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegation contained in Paragraph 7 of the Complaint, and on that basis, denies the allegation contained therein.

8. Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 8 of the Complaint that, "Allen has achieved considerable commercial and critical success in his career by, among other things, maintaining strict control over the projects with which he is associated," and on that basis denies these allegations. Defendant denies that Allen does not engage in the commercial endorsement of products or services in the United States.

9. Defendant admits the allegations contained in Paragraph 9 of the Complaint.

10. Defendant admits that it created and publicly displayed a billboard bearing Defendant's name and mark and featuring an image of a fictional character portrayed by Plaintiff (the "Billboard"). Defendant denies the remaining allegations contained in Paragraph 10 of the Complaint.

11. Defendant denies the allegations contained in Paragraph 11 of the Complaint.

12. Defendant admits that the Billboard was displayed in the City of New York and in Hollywood, California. Defendant denies the remaining allegations in Paragraph 12 of the Complaint.

13. Defendant denies the allegations contained in Paragraph 13 of the Complaint.

14. Defendant denies the allegations contained in Paragraph 14 of the Complaint.

15. Defendant denies the allegations contained in Paragraph 15 of the Complaint.

16. Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegation contained in Paragraph 16 of the Complaint, and on that basis, denies the allegation contained therein.

17. Defendant denies the allegations contained in Paragraph 17 of the Complaint.

18. Defendant repeats its answers to the allegations set forth in Paragraphs 1 through 17 of Plaintiff's Complaint as if fully set forth herein.

19. Defendant denies the allegations contained in Paragraph 19 of the Complaint.

20. Defendant denies the allegations contained in Paragraph 20 of the Complaint.

21. Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegation contained in Paragraph 21 of the Complaint, and on that basis, denies the allegation contained therein.

22. Defendant denies the allegations contained in Paragraph 22 of the Complaint.

23. Defendant denies the allegations contained in Paragraph 23 of the Complaint.

24. Defendant denies the allegations contained in Paragraph 24 of the Complaint.

25. Defendant denies the allegations contained in Paragraph 25 of the Complaint.

26. Defendant denies the allegations contained in Paragraph 26 of the Complaint.

27. Defendant repeats its answers to the allegations set forth in Paragraphs 1 through 26 of Plaintiff's Complaint as if fully set forth herein.

28. Defendant denies the allegations contained in Paragraph 28 of the Complaint.

29. Defendant denies the allegations contained in Paragraph 29 of the Complaint.

30. Defendant denies the allegations contained in Paragraph 30 of the Complaint.

31. Defendant denies the allegations contained in Paragraph 31 of the Complaint.

32. Defendant denies the allegations contained in Paragraph 32 of the Complaint.

AFFIRMATIVE DEFENSES

Further answering, Defendant affirmatively alleges:

FIRST AFFIRMATIVE DEFENSE

Failure to State a Cause of Action

Plaintiff's Complaint fails to state a cause of action.

SECOND AFFIRMATIVE DEFENSE

First Amendment Right of Free of Speech

Defendant's conduct is protected under the First Amendment Right of Free of Speech.

THIRD AFFIRMATIVE DEFENSE

Public Interest Exception

Defendant's conduct is non-actionable under the public interest exception to Sections 50 and 51 of New York's Civil Rights Law.

FOURTH AFFIRMATIVE DEFENSE

Fair Use Exception

Defendant's conduct is non-actionable under the fair use defense.

FIFTH AFFIRMATIVE DEFENSE

Parody

Defendant's conduct is non-actionable under the parody fair use defense.

SIXTH AFFIRMATIVE DEFENSE

Social Commentary

Defendant's conduct is non-actionable under the social commentary fair use defense.

SEVENTH AFFIRMATIVE DEFENSE

Release

Plaintiff has released any and all rights he may have had to the images at issue in this case.

EIGHTH AFFIRMATIVE DEFENSE

Standing

Plaintiff lacks standing to assert a claim for violation of New York Civil Rights Law and Lanham Act violations.

NINTH AFFIRMATIVE DEFENSE

Estoppel

Plaintiff is estopped from asserting claims against Defendant for violation of New York Civil Rights Law and Lanham Act violations.

TENTH AFFIRMATIVE DEFENSE

Laches and Waiver

Plaintiff claims against Defendant for violation of New York Civil Rights Law and Lanham Act violations are barred under the doctrines of laches and waiver.

ELEVENTH AFFIRMATIVE DEFENSE

Failure to Mitigate Damages

Plaintiff has failed to mitigate any damages he may have incurred as a result of Plaintiff's alleged violations of New York Civil Rights Law and the Lanham Act.

WHEREFORE, American Apparel prays as follows:

1. That Plaintiff take nothing by reason of its complaint and that judgment be rendered in favor of Defendant;
2. That Defendant be awarded its costs of suit incurred in defense of this action; and
3. For such other relief as the Court deems proper.

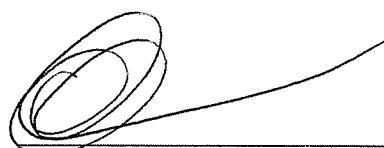
DEMAND FOR JURY TRIAL

Defendant hereby demands a jury trial.

Dated: May 27, 2008

BUCHANAN INGERSOLL & ROONEY P.C.

By:


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